

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Harry Morris et al.	Art Unit :	2451
Serial No. :	09/690,007	Examiner :	Backhean Tiv
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Title :	DISPLAYING ADVERTISEMENTS IN A COMPUTER NETWORK ENVIRONMENT		

**Mail Stop Appeal Brief - Patents**

Commissioner for Patents  
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**REPLY BRIEF**

Pursuant to 37 C.F.R. § 41.41, Appellant responds to the points raised in the Examiner's Answer dated February 12, 2009 as follows.

**Claims 1-28, 55-57, and 64-75 are not properly rejected under 35 U.S.C. § 103 as being unpatentable over Blumenau in view of Guyot and Cezar.**

Claims 1-28, 55-57, and 64-75 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Blumenau (U.S. Patent No. 6,108,637) in view of Guyot (U.S. Patent No. 6,119,098) and Cezar (U.S. Patent No. 6,128,651). Appellant requests reversal of this rejection because Blumenau, Guyot, and Cezar, either singly or in combination, fail to describe or suggest the subject matter of independent claims 1, 15, 55, and 75, as described more fully below. In the argument below, Appellant discusses independent claims 1, 15, 55, and 75 in sequential order.

**Independent Claim 1**

Notwithstanding comments made in the Examiner's Answer, Appellant maintains the positions previously articulated in the Appeal Brief that Blumenau, Guyot, and Cezar, either singly or in combination, fail to describe or suggest at least two features of independent claim 1.

First, these references fail to describe or suggest varying an amount of display time for which a later displayed advertisement is to be displayed on a viewer's associated computer system based on an amount of time determined based on the viewer's monitored interactions with the viewer's associated computer system. Second, these references fail to describe or suggest that a varied amount of display time for which a later displayed advertisement is to be displayed

on a viewer's associated computer system is different than an amount of display time for which the later displayed advertisement is to be displayed on another viewer's associated computer system, as recited by independent claim 1.

Specifically, with respect to the first point, none of the cited references describe or suggest varying an amount of display time for which a later displayed advertisement is to be displayed on a viewer's associated computer system based on any monitored information, much less the viewer's monitored interactions with the viewer's associated computer system. In the response to argument section, the Examiner's Answer begins to address the combination of references by stating that Blumenau suggests:

exploration of art and/or provided a reason to modify the method of presenting advertisement to include additional features such as varying an amount of display time for which a later displayed advertisement is to be displayed on the viewer's associated computer system based upon review and analysis of monitoring information. Examiner's Answer at page 13, lines 6-9.

Blumenau, however, does not describe or suggest varying an amount of display time for which a later displayed advertisement is to be displayed on the viewer's associated computer system based upon review and analysis of monitoring information, as the Examiner's Answer appears to assert. Specifically, col. 19, lines 2-11 of Blumenau describes that the duration of time that a set of content has been displayed can be determined based on monitoring information and the portion of content displayed may be changed as a function of the determined duration. As such, in this portion of Blumenau, the amount of display time for a later advertisement is not varied based on the monitored information. Rather, the amount of time the content has already been displayed is determined based on such information.

Further, col. 20, lines 23-36 of Blumenau describes aspects of communication of monitoring information and is unrelated to an amount of display time of content. Also, col. 16, lines 60-67 of Blumenau describes monitoring a change in time of a characteristic, not varying an amount of display time. The monitored change in time characteristic includes monitoring "hiding of the content display and entry of a pointer into a defined area" and does not relate to varying an amount of display time of content. Blumenau at col. 17, lines 2-6. Therefore, the statement in the Examiner's Answer that Blumenau provides a reason to modify the method of presenting advertisement to include additional features such as varying an amount of display time for which a later displayed advertisement is to be displayed on the viewer's associated computer system based upon review and analysis of monitoring information is simply incorrect.

Although Blumenau describes that "monitoring information can be used to affect the display of a set of content," Blumenau provides no description or suggestion that monitoring information can be used to vary or otherwise affect an amount of display time of a later displayed advertisement. See Blumenau at col. 18, lines 33-45.

The Examiner's Answer then refers to Guyot for describing controlling advertisement display based on personal subscriber profiles and monitoring user activity in order to display advertisements. See Examiner's Answer at page 13, line 20 through page 14, line 2 (citing Guyot at col. 5, lines 5-20). However, although Guyot describes using subscriber activity to schedule the display of advertisements, Guyot does not describe or suggest varying an amount of display time for which a later displayed advertisement is to be displayed on a viewer's associated computer system based on monitored subscriber activity. Rather, Guyot explicitly describes that advertisements are displayed for a "predetermined time period" without regard to subscriber activity. See Guyot at FIG. 5, ref. no. S1300.

The Examiner's Answer next relies on Cezar for this feature. Specifically, in addressing Cezar, the Examiner's Answer states:

Cezar, col. 2, lines 20-59, col. 3, lines 25-36, 45-47, teaches precise timed advertisement. Further, Cezar, col. 4, lines 45-52, recites "[This] general system operation can include alteration of the number of times that ad content [16] is displayed, the classification of ad content [16], the time of day of display of ad content [16] and **virtually any desired parameter which an advertiser would prefer to control**". It would have been obvious to one of ordinary skill in the art at the time of the invention to consider one of a "desired parameter" as the timer since Cezar's teaches the use of timers for advertisement. Examiner's Answer at page 14, lines 3-10.

Even assuming, for the sake of argument, that this portion of Cezar suggests varying an amount of display time, Cezar does not describe or suggest doing so based on a viewer's monitored interactions with the viewer's associated computer system. Rather, Cezar describes that advertisement parameters may be altered in the "general system operation." The general system operation involves altering advertisement parameters based on advertiser control and does not account for monitored viewer interactions with a computer system. Accordingly, even assuming, for the sake of argument, that Cezar suggests varying an amount of display time, Cezar does not describe or suggest varying an amount of display time for which a later displayed advertisement is to be displayed on a viewer's associated computer system based on an amount of time determined based on the viewer's monitored interactions with the viewer's associated computer system.

Additionally, in integrating the teachings of Cezar into Blumenau and Guyot, assuming, for the sake of argument, that the references are properly combined, no reason exists for modifying the teachings of Cezar to include varying an amount of display time for which a later displayed advertisement is to be displayed on a viewer's associated computer system based on an amount of time determined based on the viewer's monitored interactions with the viewer's associated computer system. Specifically, Cezar is directed to a system configured to provide the display of an advertisement for a guaranteed, minimum timed interval and varying the display time based on monitored interactions may negate this minimum interval. See Cezar at Abstract. To that end, each advertisement is associated with an individual timer that is used to control the display time of that advertisement. See Cezar at col. 2, lines 34-53. In particular, when a browser displays an advertisement, the timer associated with the displayed advertisement is started and, when a time out of the timer occurs, the browser reports to a system controller and changes the displayed advertisement. See Cezar at col. 3, lines 32-44. Based on the timer and report to the system controller, "the advertiser is assured that his particular ad content is displayed for the required minimum time interval" and "a precise record of advertising control [is] maintained." Id. In this regard, the Cezar system provides "accountability," "proof of advertisement display to the paying advertiser," and "assurance of the number of times that the identified ad content has been displayed to a browser for a minimum timed interval." Cezar at col. 3, lines 49-61. Accordingly, in integrating the advertisement display time control features of Cezar into Blumenau and Guyot, one would be mindful of Cezar's purpose and the aspects of Cezar's implementation needed to achieve this purpose. Thus, no reason exists to modify Cezar to vary an amount of display time based on a viewer's monitored interactions with the viewer's associated computer system because, modifying Cezar in this manner, would negate Cezar's objective of assuring that advertisements are displayed for a timed interval paid for by an advertiser.

Accordingly, for at least the reasons discussed above, Appellant submits that each of Blumenau, Guyot, and Cezar, either singly or in combination, fail to describe or suggest varying an amount of display time for which a later displayed advertisement is to be displayed on a viewer's associated computer system based on an amount of time determined based on the

viewer's monitored interactions with the viewer's associated computer system, as recited in independent claim 1.

With respect to the second point, these references also fail to describe or suggest that a varied amount of display time for which a later displayed advertisement is to be displayed on a viewer's associated computer system is different than an amount of display time for which the later displayed advertisement is to be displayed on another viewer's associated computer system, as recited by independent claim 1.

Specifically, the Examiner's Answer recognizes that:

Blumenau in view of Guyot in further view of Cezar does not explicitly teach the varied amount of display time being different than an amount of display time for which the later displayed advertisement is to be displayed on another viewer's associated computer system. Examiner's Answer at page 5, line 20 through page 6, line 1.

The Examiner's Answer appears to suggest that, although this feature is missing from the cited references, it would have been obvious to derive this feature when Blumenau, Guyot, and Cezar are viewed together. However, none of the cited references describe or suggest that an amount of display time for an advertisements differs among viewers of the advertisement.

The Examiner's Answer indicates that Blumenau suggests:

exploration of art and/or provided a reason to modify the method of presenting advertisement to include additional features such as varying an amount of display time for which a later displayed advertisement is to be displayed on the viewer's associated computer system based upon review and analysis of monitoring information. Examiner's Answer at page 13, lines 6-9.

However, as discussed above with respect to the first point, Blumenau does not provide a reason to modify the method of presenting advertisements to include additional features such as varying an amount of display time for which a later displayed advertisement is to be displayed on the viewer's associated computer system based upon review and analysis of monitoring information. Moreover, although Blumenau describes monitoring characteristics related to duration of content display, Blumenau does not describe or suggest that content is displayed to different users for different durations. See Blumenau at col. 16, lines 60-67 and col. 19, lines 2-11.

The Examiner's Answer then refers to Guyot for describing controlling advertisement display based on personal subscriber profiles and monitoring user activity in order to display advertisements. See Examiner's Answer at page 13, line 20 through page 14, line 2 (citing Guyot at col. 5, lines 5-20). Although Guyot describes scheduling display of advertisements based on subscriber activity, Guyot does not describe or suggest that advertisements are

displayed to users for different display times. Rather, Guyot explicitly describes that advertisements are displayed for a "predetermined time period" that is not said to vary between users. See Guyot at FIG. 5, ref. no. S1300.

Further, the Examiner's Answer refers to Cezar for describing precise timed advertisements and altering virtually any desired parameter which an advertiser would prefer to control. See Examiner's Answer at page 14, lines 3-4 (citing Cezar at col. 2, lines 20-59, col. 3, lines 25-36 and 45-47, and col. 4, lines 45-52). However, at most, Cezar describes the display time being the same for all viewers, even assuming, for the sake of argument, that the universal display time may be altered in the Cezar system. As discussed above, Cezar is directed to a system configured to provide the display of an advertisement for a guaranteed, minimum timed interval. See Cezar at Abstract. To that end, each advertisement is associated with an individual timer that is used to control the display time of that advertisement to all users. See Cezar at col. 2, lines 34-53. As such, the associated advertisement is displayed on all of the viewers' computer systems for the same predefined time.

Accordingly, none of the cited references describe or suggest that an amount of display time for the same advertisement differs among viewers of the advertisement and the Examiner has not provided a reason to modify the cited references in such a way. In fact, as discussed above, the objectives of the Cezar system include providing "proof of advertisement display to the paying advertiser" and "assurance of the number of times that the identified ad content has been displayed to a browser for a minimum timed interval." Cezar at col. 3, lines 49-61. Therefore, modifying Cezar such that an amount of display time for the same advertisement differs among viewers of the advertisement would negate Cezar's objective of assuring that advertisements are displayed for a timed interval paid for by an advertiser. Accordingly, Cezar teaches away from displaying the same advertisement to different viewers for different amounts of time and provides no reason to modify its advertisement display time control features to arrive at such a result.

Therefore, none of the cited references describe or suggest that an amount of display time for the same advertisement differs among viewers of the advertisement. Accordingly, Blumenau, Guyot, and Cezar, either singly or in combination, fail to describe or suggest that the varied amount of display time is different than an amount of display time for which the later

displayed advertisement is to be displayed on another viewer's associated computer system, as recited by independent claim 1.

#### **Independent Claim 15**

Independent claim 15 recites a computer program for presenting advertising to viewers in a computer network environment in a manner corresponding to that of independent claim 1. Accordingly, for at least the reasons described above with respect to independent claim 1, Appellant respectfully requests reversal of the rejection of independent claim 15 and its dependent claims.

#### **Independent Claim 55**

Further, independent claim 55 recites a method of optimizing a click-through rate of a user viewing content in a computer network environment that includes, among other things, varying an amount of display time for which an advertisement is to be displayed based on a user's activity with respect to the user's computer, the varied amount of display time being different than an amount of display time for which the later displayed advertisement is to be displayed on another viewer's associated computer system. Accordingly, for at least the reasons described above with respect to independent claim 1, Appellant respectfully requests reversal of the rejection of independent claim 55 and its dependent claims.

#### **Independent Claim 75**

With respect to claim 75, independent claim 75 recites, among other things, determining an amount of time to display advertisements to a particular user based on accessed data related to the particular user's interactions with a computer system used by the particular user, adjusting a general timing attribute that indicates an amount of time to display an advertisement to users based on the determined amount of time to display advertisements to the particular user, and associating the adjusted general timing attribute with the advertisement to be displayed to the particular user as a user-specific timing attribute that indicates the amount of time to display the advertisement to the particular user. As discussed above with respect to independent claim 1, Blumenau, Guyot, and Cezar, either singly or in combination, fail to describe or suggest varying

an amount of display time for which a later displayed advertisement is to be displayed on a viewer's associated computer system based on an amount of time determined based on the viewer's monitored interactions with the viewer's associated computer system, where the varied amount of display time is different than an amount of display time for which the later displayed advertisement is to be displayed on another viewer's associated computer system. Therefore, for reasons similar to those discussed above with respect to claim 1, Appellant submits that Blumenau, Guyot, and Cezar, either singly or in combination, also fail to describe or suggest determining an amount of time to display advertisements to a particular user based on accessed data related to the particular user's interactions with a computer system used by the particular user, adjusting a general timing attribute that indicates an amount of time to display an advertisement to users based on the determined amount of time to display advertisements to the particular user, and associating the adjusted general timing attribute with the advertisement to be displayed to the particular user as a user-specific timing attribute that indicates the amount of time to display the advertisement to the particular user.

For at least these reasons, Appellant respectfully requests reversal of the rejection of independent claim 75.

#### **Dependent Claims 5, 6, 7, 19, 20, 21, and 56**

With respect to dependent claims 5, 6, 7, 19, 20, 21, and 56, Appellant requests reversal of the rejection of claims 5, 6, 7, 19, 20, 21, and 56 at least for the reason of their dependency on one of claims 1, 15, and 55. In addition, Appellant requests reversal of the rejection of claims 5, 6, 7, 19, 20, 21, and 56 because Blumenau, Guyot, and Cezar, either singly or in combination, fail to describe or suggest the additional subject matter recited in dependent claims 5, 6, 7, 19, 20, 21, and 56.

#### **Dependent Claims 5 and 19**

For example, dependent claim 5 recites, among other things, adjusting an idle delay configured to cause a delay from the time a user has gone idle before a first advertisement is replaced with another advertisement.

In addressing this feature the Examiner's Answer states:

Guyot, col. 5, lines 6-17, col. 7, lines 49-56, teaches that when a user has gone idle from no interaction, a specific advertisement is displayed. Inherently there is a delay when an



advertisement is changed from one advertisement to another because changing from one advertisement to another advertisement can never be instantaneous. Further, Cezar, col. 4, lines 45-52, recites "[This] general system operation can include alteration of the number of times that ad content [16] is displayed, the classification of ad content [16], the time of day of display of ad content [16] and **virtually any desired parameter which an advertiser would prefer to control**". Examiner's Answer at page 15, lines 4-12.

The Examiner's argument appears to rely on Cezar's description of alteration of "virtually any desired parameter which an advertiser would prefer to control" and the inherent aspect of Guyot that some delay exists when one advertisement is changed to another to suggest that idle delay is an advertisement parameter that may be adjusted in a combination of Guyot and Cezar. Appellant disagrees.

Specifically, neither Guyot nor Cezar describe an idle delay configured to cause a delay from the time a user has gone idle before a first advertisement is replaced with another advertisement as being a parameter controlled by an advertiser. The only reference to such an idle delay comes from the Examiner's Answer in which the Examiner merely recognizes that an inherent delay exists when one advertisement is changed to another. However, the inherent delay referenced by the Examiner is not an idle delay configured to cause a delay from the time a user has gone idle before a first advertisement is replaced with another advertisement. Rather, the inherent delay in the Guyot system is not caused by an idle delay parameter configured to cause a delay, but, instead, the inherent delay in the Guyot system is caused by display control and processing time needed to change advertisement display, despite the Guyot system's attempt to change advertisement display as fast as possible. Accordingly, the Guyot system does not describe or suggest an idle delay configured to cause a delay from the time a user has gone idle before a first advertisement is replaced with another advertisement as being a parameter controlled by an advertiser.

Moreover, Cezar's statement that "virtually any desired parameter which an advertiser would prefer to control [may be altered]" is not applicable to the inherent delay in the Guyot system because the inherent delay is not an advertisement parameter in the Guyot system, but, rather, an inherent aspect that the Guyot system does not control. Appellant submits that Cezar's statement that "virtually any desired parameter which an advertiser would prefer to control [may be altered]" does not provide a reason to alter any and all inherent aspects of advertisement display that occur in any system and, therefore, Cezar's statement in light of the inherent delay in

the Guyot system is insufficient to suggest adjusting an idle delay configured to cause a delay from the time a user has gone idle before a first advertisement is replaced with another advertisement, as recited in claim 5. Therefore, Appellant respectfully requests reversal of the rejection of claim 5 for at least these additional reasons.

Claim 19 recites a computer program for presenting advertising to viewers in a computer network environment in a manner corresponding to that of claim 5. Accordingly, for at least the additional reasons described above with respect to claim 5, Appellant respectfully requests reversal of the rejection of claim 19.

#### Dependent Claims 6 and 20

In another example, dependent claim 6 recites, among other things, adjusting an active delay configured to cause a delay from the time a user goes active before displaying another advertisement.

The Examiner's Answer treats this feature in the same way as the feature of adjusting an idle delay discussed above with respect to claim 5. Specifically, the Examiner's argument appears to rely on Cezar's description of alteration of "virtually any desired parameter which an advertiser would prefer to control" and the inherent aspect of Guyot that some delay exists when one advertisement is changed to another to suggest that active delay is an advertisement parameter that may be adjusted in a combination of Guyot and Cezar. Appellant disagrees.

Similar to idle delay discussed above with respect to claim 5, the only reference to an active delay comes from the Examiner's Answer in which the Examiner merely recognizes that an inherent delay exists when one advertisement is changed to another. However, the inherent delay referenced by the Examiner is not an active delay configured to cause a delay from the time a user goes active before displaying another advertisement. Rather, the inherent delay in the Guyot system is not caused by an active delay parameter configured to cause a delay, but, instead, the inherent delay in the Guyot system is caused by display control and processing time needed to change advertisement display, despite the Guyot system's attempt to change advertisement display as fast as possible. Accordingly, the Guyot system does not describe or suggest an active delay configured to cause a delay from the time a user goes active before displaying another advertisement.

Moreover, as discussed above with respect to claim 5, Cezar's statement that "virtually any desired parameter which an advertiser would prefer to control [may be altered]" is not applicable to the inherent delay in the Guyot system because the inherent delay is not an advertisement parameter in the Guyot system, but, rather, an inherent aspect that the Guyot system does not control. Appellant submits that Cezar's statement that "virtually any desired parameter which an advertiser would prefer to control [may be altered]" does not provide a reason to alter any and all inherent aspects of advertisement display that occur in any system and, therefore, Cezar's statement in light of the inherent delay in the Guyot system is insufficient to suggest adjusting an active delay configured to cause a delay from the time a user goes active before displaying another advertisement, as recited in claim 6. Therefore, Appellant respectfully requests reversal of the rejection of claim 6 for at least these additional reasons.

Claim 20 recites a computer program for presenting advertising to viewers in a computer network environment in a manner corresponding to that of claim 6. Accordingly, for at least the additional reasons described above with respect to claim 6, Appellant respectfully requests reversal of the rejection of claim 20.

#### Dependent Claims 7 and 21

In yet another example, dependent claim 7 recites, among other things, adjusting an idle (no spin) parameter configured to stop the display of a first advertisement from being replaced with the display of another advertisement after a user goes idle.

The Examiner's Answer relies on Guyot for this feature:

Guyot, col.5, lines 6-17, col.7, lines 49-56, teaches that when the user has gone idle from no interaction, a specific advertisement is displayed. Only one advertisement is being displayed during the screen save mode therefore, an advertisement is not replaced with another advertisement. Examiner's Answer at page 16, lines 3-6.

The identified portions of Guyot, however, describe that, when a user has been idle for a predetermined length of time, advertisements registered for a screen saver mode are selected and displayed. Accordingly, the Guyot system does not stop the display of a first advertisement from being replaced with the display of another advertisement after a user goes idle. Instead, the Guyot system explicitly replaces the display with new advertisements registered for a screen saver mode after a user goes idle.

Further, the Examiner's Answer appears to rely on the fact only one advertisement is displayed during the screen saver mode. However, Guyot does not describes that only one

advertisement is displayed during the screen save mode. Rather, col. 5, lines 6-17 of Guyot (emphasis added) describe that, “[w]hile in the screen saver mode, the processor 310 preferably displays advertisements that have been specifically registered for display during the screen saver mode.” The use of the plural “advertisements” suggests that the Guyot system displays multiple advertisements during the screen saver mode, not only one.

Moreover, even assuming, for the sake of argument, that the Guyot system displays only one advertisement during the screen save mode, the display of only one advertisement does not suggest adjusting an idle (no spin) parameter configured to stop the display of a first advertisement from being replaced with the display of another advertisement after a user goes idle. The Examiner's Answer fails to identify any portion of Guyot in which an idle (no spin) parameter configured to stop the display of a first advertisement from being replaced with the display of another advertisement after a user goes idle is adjusted. Therefore, for at least the above reasons, Guyot fails to describe or suggest adjusting an idle (no spin) parameter configured to stop the display of a first advertisement from being replaced with the display of another advertisement after a user goes idle, as recited in claim 7. Accordingly, Appellant respectfully requests reversal of the rejection of claim 7 for at least these additional reasons.

Claim 21 recites a computer program for presenting advertising to viewers in a computer network environment in a manner corresponding to that of claim 7. Accordingly, for at least the additional reasons described above with respect to claim 7, Appellant respectfully requests reversal of the rejection of claim 21.

#### Dependent Claim 56

Dependent claim 56 recites, among other things, varying tuning parameters downloaded to a user's computer, and utilizing a correlation technique to determine a correlation between the tuning parameters downloaded to the user's computer and a click-through rate of the user.

The Examiner's Answer relies on Blumenau for this feature, referring to col. 16, lines 14-38 and 60-67 and col. 18, lines 33-45. Examiner's Answer at page 16, lines 11-21. Specifically, the Examiner's Answer indicates that Blumenau describes “determining the number of times that an on-screen pointer enters a defined area.” Examiner's Answer at page 16, lines 12-13. However, “determining the number of times that an on-screen pointer enters a defined area” is not a determination of click-through rate because, when the on-screen pointer enters the defined

area, the user may or may not activate the on-screen pointer to click-through a displayed advertisement.

In addition, the Examiner's Answer refers to Blumenau's description that "monitoring information can be used to affect the display of a set of content." Examiner's Answer at page 16, lines 17-18. However, this portion of Blumenau does not describe or suggest varying tuning parameters downloaded to a user's computer, and then determining a correlation between the varied tuning parameters downloaded to the user's computer and a click-through rate of the user. Although Blumenau may affect display of content based on monitoring information, Blumenau does not determine a correlation between varied tuning parameters and a click-through rate of the user. Therefore, Appellant respectfully requests reversal of the rejection of claim 56 for at least these additional reasons.

### **Conclusion**

For these reasons, and the reasons stated in the Appeal Brief, Appellant submits that the final rejections should be reversed. The Director is hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required by this paper to Deposit Account No. 06-1050. The Director also is hereby authorized to apply any additional fees or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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